

September 23, 2008

Karen Remley, M.D., M.B.A.
State Health Commissioner
Department of Health
109 Governor Street
Richmond, Virginia 23219

Proposed Regulations for the Schedule of Civil Penalties for Violations of the Sewage Handling and Disposal Regulations

Dear Dr. Remley:

I have reviewed the proposed regulations for the *Schedule of Civil Penalties*, 12 VAC 5-650-10 *et seq.* The proposed regulations establish a schedule of civil penalties for violations of the Sewage Handling and Disposal Regulations and the Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings .

It is my view that the Board of Health, contingent on approval by the Governor, has legal authority to promulgate the subject regulations pursuant to *Code of Virginia* § 32.1-12, §32.1-27, and § 32.1-164.

The purpose of this communication is to provide legal advice. To the extent that this communication may advise you that certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency or board and this communication should not be construed as a comment for or against the merits of such action.

Sincerely,

Karri B. Atwood
Assistant Attorney General

cc: Robert W. Hicks, Director, Office of Environmental Health Services
Donald J. Alexander, Director, Division of Onsite Sewage and Water Services